



W.P.No.5357 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS. JUSTICE N.MALA**

W.P.No.5357 of 2023

"SREENIVAS TOWERS FLAT
OWNERS WELFARE ASSOCIATION"

Rep. by its Secretary mr.M.Dilipkumar,
Puducherry-Villupuram Main Road,
Oulgaret,
Puducherry - 605 010

..Petitioner

Vs.

1. The Member Secretary,
Puducherry Planning Authority,
Jawahar Nagar,
Bommianpet,
Puducherry.
2. The Superintending Engineer,
Electricity Department,
Puducherry.
3. The Executive Engineer,
Public Health Division, PWD,
Puducherry.



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4. The Executive Engineer,
National Highways Division, PWD,
Puducherry.

5. The Commissioner,
Oulgaret Municipality,
Puducherry.

6. The Station House Officer,
Reddiarpalayam Police Station,
Puducherry.

7. B.Sasirekha

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 1st respondent to initiate necessary action based on the demolition notice Ref.No.1248/PPA/Z (Oulgaret/SB/R)/2000-2022/4556 dated 16.11.2022 issued by the first respondent as against the 7th respondent's unauthorized construction within a time stipulated period.

For Petitioner : Dr.A.Thiyagarajan,
Senior Counsel
for Mr.D.Senthilkumar

For Respondents : Mr.J.Kumaran,
Additional Government Pleader(Pondy)
for R1 to R6
Mr.E.V.Chandru for R7



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ORDER

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This writ petition has been filed to direct the 1st respondent to initiate necessary action based on the demolition notice dated 16.11.2022 issued by the 1st respondent as against the 7th respondent unauthorized construction within a time to be stipulated by this Court.

2. i) The petitioner Association has been duly registered under the Societies Registration Act. The builder M/s. Sree Nivas Build Tech(India) Pvt.Ltd. and its promoter namely R.Venugopal has caused public advertisement stating that they have proposed to put up residential unit around 1 lakh sq.ft. area fully compounded and guarded by security person in the name and style of 'Sree Nivas Towers' at Pondicherry to Villupuram Main Road, Oulgaret. It consists of 211 flats including special amenities. The Petitioner Association members have borrowed and mobilized the fund in order to purchase the flat at "Sree Nivas Towers" in their individual respective names. 'A' Block building is situated abutting to Villupuram Main road within the gated community and there are 7 blocks including community center, parking area and other common facilities for the residents.

ii) Due to financial issues faced by the promoter, the commercial area was lying vacant from the year 2000 till the possession of the present owner occupied. Due to default in repayment of due against the commercial property



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owned by the promoter, the UCO Bank had taken possession of the commercial property. The said bank sold the same to one Mrs.Sasirekha/7th respondent vide sale certificate dated 17.08.2020. The present property owner/7th respondent is not aware of the concept of Gated Community and are infringing the rights of the existing residents of 'Sree Nivas Towers' in violation of the Acts and Rules. Therefore, the petitioner submitted a detailed representation on 19.10.2022 to the 1st respondent to take necessary legal action. The first respondent inspected the premises based on the complaint/representation given by the petitioners' Association and issued demolition notice dated 16.11.2022. Despite lapse of one month, the 7th respondent has not stopped her work. Though the same was brought to the notice of the 1st respondent, till date no action was taken. Hence, the present writ petition.

3. Learned counsel appearing for the 7th respondent would state that the 7th respondent has filed an appeal before the 1st respondent and the same is still pending. It is also stated by the 7th respondent, that the 7th respondent is residing at Hyderabad and as on date, no construction is going on.

4. The said submission made by the 7th respondent is recorded.

5. Considering the facts and circumstances of the case and considering that the 7th respondent has filed an appeal before the 1st respondent and the same is pending, a direction is issued to the 1st respondent to dispose of the



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appeal filed by the 7th respondent on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. The petitioner is always at liberty to challenge the order passed in the appeal filed by the 7th respondent, if aggrieved. Accordingly, the Writ Petition is disposed of. No costs.

(J.N.B,J.) (N.M., J.)
31.07.2023

Index : Yes / No
Internet : Yes
vsi

To

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2. The Superintending Engineer,
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Public Health Division, PWD,
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4. The Executive Engineer,
National Highways Division, PWD,
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5. The Commissioner,



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and
N.MALA,J.

vs

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